

1 C. YONG JEONG, ESQ. (SBN 255244)
2 jeong@jeonglikens.com
3 JEONG & LIKENS, L.C.
4 222 South Oxford Avenue
5 Los Angeles, California 90004
6 Tel. 213-688-2001
7 Fax. 213-315-5035

8 Attorneys for Plaintiff, JITRADE, INC.

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA
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13 JITRADE, INC., a California
14 Corporation;

15 Plaintiff,

16 vs.

17 AMAZON.COM SERVICES, INC., a
18 Delaware corporation; and DOES 1-10,
19 inclusive,

20 Defendants.

Case Number: 2:19-cv-01455

PLAINTIFF'S COMPLAINT FOR:

- 1. COPYRIGHT INFRINGEMENT**
2. VICARIOUS COPYRIGHT
INFRINGEMENT
3. CONTRIBUTORY COPYRIGHT
INFRINGEMENT

Jury Trial Demanded

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23 Plaintiff JITRADE, INC. ("Plaintiff" or "JITRADE") by and through its
24 undersigned attorneys, hereby prays to this honorable Court for relief and remedy
25 based on the following:
26

27 **INTRODUCTION**
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1 Plaintiff creates, or purchases and obtains, exclusive rights to unique two-
2 dimensional graphic artworks for use on textiles and garments, and those textiles
3 and garments are transacted primarily in the fashion industry. Plaintiff owns these
4 designs in exclusivity and makes sales of products bearing these designs for profit.
5 Plaintiff's business is predicated on its ownership of these designs and it spends a
6 considerable amount of time and resources creating and obtaining top-quality,
7 marketable and aesthetically-appealing designs. Customers of Plaintiff, including
8 possibly DOE defendants named herein, take design samples with the
9 understanding and agreement that they will only utilize Plaintiff to reproduce said
10 designs should they wish to do so, and will not seek to make minor changes to
11 Plaintiff's proprietary work to reproduce the same elsewhere, yet use those designs
12 in furtherance of their business in violation of both their contractual agreement
13 with Plaintiff and Plaintiff's copyrights. No other party is authorized to make sales
14 of product bearing Plaintiff's proprietary designs without express permission from
15 Plaintiff. This action is brought to recover damages for direct, vicarious and
16 contributory copyright infringement arising out of the misappropriation of
17 Plaintiff's exclusive designs by the Defendants, and each of them.

JURISDICTION AND VENUE

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20 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C. § 101 *et*
21 *seq.*
- 22 2. This Court has federal question jurisdiction under 28 U.S.C. §§ 1331, 1338(a)
23 and (b).
- 24 3. Venue in this judicial district is proper under 28 U.S.C. §§ 1391(c) and 1400(a)
25 in that this is the judicial district in which a substantial part of the acts and
26 omissions giving rise to the claims occurred.

PARTIES

- 1 4. JITRADE, INC. (“Plaintiff”) is a corporation organized and existing under the
2 laws of the State of California with its principal place of business in the County
3 of Los Angeles, at 6279 E. Slauson Ave #408, Commerce, CA 90040.
- 4 5. Plaintiff is informed and believes and thereon alleges that Defendant
5 AMAZON.COM SERVICES, INC. (“AMAZON”), is, and at all times herein
6 mentioned was, a corporation organized and existing under the laws of the State
7 of New York and doing business in California, with its principal place of
8 business at 410 Terry Avenue North, Seattle, WA 98109.
- 9 6. Named Defendants, and Does 1-10, may be collectively referred to as
10 “Defendants.”
- 11 7. Plaintiff is informed and believes and thereon alleges that some of Defendants
12 Does 1 through 3, inclusive, are manufacturers and/or vendors of garments to
13 Defendant, which DOE Defendants have manufactured and/or supplied and are
14 manufacturing and/or supplying garments comprised of fabric printed with
15 Plaintiff’s copyrighted design(s) (as hereinafter defined) without Plaintiff’s
16 knowledge or consent or have contributed to said infringement. The true
17 names, whether corporate, individual or otherwise, and capacities of defendants
18 sued herein as Does 1 through 3 are presently unknown to Plaintiff at this time,
19 and therefore, Plaintiff sues said defendants by such fictitious names. Plaintiff
20 will seek leave to amend this complaint to allege their true names and capacities
21 when the same have been ascertained. Plaintiff is informed and believes, and
22 based thereon alleges, that each of defendants designated as a DOE is
23 responsible in some manner for the events alleged herein and the damages
24 caused thereby.
- 25 8. Defendants DOES 4 through 10, inclusive, are other parties not yet identified
26 who have infringed Plaintiff’s copyrights, have contributed to the infringement
27 of Plaintiff’s copyrights, or have engaged in one or more of the wrongful
28 practices alleged herein. The true names, whether corporate, individual or

otherwise, and capacities of defendants sued herein as Does 4 through 10 are presently unknown to Plaintiff at this time, and therefore, Plaintiff sues said defendants by such fictitious names. Plaintiff will seek leave to amend this complaint to allege their true names and capacities when the same have been ascertained.

9. Plaintiff is informed and believes and thereupon alleges that at all times relevant hereto each of Defendants acted in concert with each other, was the agent, affiliate, officer, director, manager, principal, alter-ego, and/or employee of the remaining defendants and was at all times acting within the scope of such agency, affiliation, alter-ego relationship and/or employment; and actively participated in or subsequently ratified and adopted, or both, each and all of the acts or conducts alleged, with full knowledge of all the facts and circumstances, including without limitation to full knowledge of each and every wrongful conducts and Plaintiff's damages caused therefrom.

CLAIMS RELATED TO DESIGN

10. Plaintiff is the owner and author of a two-dimensional artwork under title "JITRADE INC (SND1211-32) ("Subject Design"). (Exhibit A).
11. Plaintiff applied for a copyright from the United States Copyright Office for the Subject Design and was granted Registration VAu 1-191-206 effective on May 1, 2013. (Exhibit B).
12. Plaintiff formatted the Subject Design for use on textiles, sampled the Subject Design, and negotiated sales of fabric bearing the Subject Design.
13. Plaintiff is informed and believes and thereon alleges that Defendants, each of them, had access to the Subject Designs, including without limitation, through: (a) access to Plaintiff's showroom and/or design library; (b) access to illegally distributed copies of the Subject Designs by third-party vendors and/or DOE Defendants, including without limitation international and/or overseas

1 converters and printing mills; (c) access to Plaintiff's strike-offs and samples;
2 and (d) access to garments in the marketplace manufactured with lawfully
3 printed fabric bearing the Subject Designs.

4 14. Plaintiff is informed and believes and thereon alleges that, without Plaintiff's
5 authorization, Defendant AMAZON purchased, sold, marketed, advertised,
6 manufactured, caused to be manufactured, imported and/or distributed fabric
7 and/or garments comprised of fabric featuring a design which is identical, or
8 substantially similar to, the Subject Design. A true and correct copy of such a
9 garment is attached hereto as Exhibit C. Said garments include but are not
10 limited to garments sold by AMAZON bearing the label "ALEXIA ADMOR"
11 under Style Number D2242.

12 15. Plaintiff is informed and believes and thereon alleges that, without Plaintiff's
13 authorization, acting in concert with each other, Defendant AMAZON, DOE
14 No 1, using the Amazon's "legacy merchant ID" (1113607041), and DOE No. 2
15 as an officer and/or the principal having control and knowledge over DOE No.
16 1's infringing activities, willfully continued infringement upon Plaintiff's
17 copyright by knowingly and recklessly displaying, marketing, advertising
18 and/or selling the Accused Garments through its website while a civil litigation
19 was pending and even after the conclusion of the said case for more than a year
20 period.

21 16. At various times Defendant AMAZON owned and controlled offline and/or
22 online retail stores, and each, Plaintiff's investigation revealed that garments
23 comprised of fabric bearing the Subject Design were being offered for sale,
24 garments which were manufactured and/or imported under the direction of the
25 Defendants, and each of them.

26 17. None of the aforementioned transactions were authorized by Plaintiff, and all
27 were in violation of Plaintiff's intellectual property rights.
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FIRST CLAIM FOR RELIEF

(For Copyright Infringement – Against all Defendants, and Each)

18. Plaintiff repeats, re-alleges and incorporates herein by reference as though fully set forth the allegations contained in Paragraphs 1 through 17, inclusive, of this Complaint.

19. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, accessed the Subject Design through, without limitation, the following: (a) access to Plaintiff's design library; (b) access to authorized or unauthorized reproductions in the possession of other vendors and/or DOE Defendants; and (c) access to Plaintiff's strike-offs, swatches, paper CADs and samples.

20. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, infringed Plaintiff's copyright by importing, creating, marketing, advertising, making, and/or developing directly infringing and/or derivative works from the Subject Design and by importing, producing, distributing and/or selling infringing garments through a nationwide network of retail stores, catalogues, and online websites.

21. Due to Defendants' acts of infringement, Plaintiff has suffered substantial damages to its business in an amount to be established at trial.

22. Due to Defendants' acts of infringement, Plaintiff has suffered general and special damages to its business in an amount to be established at trial.

23. Due to Defendants' acts of copyright infringement as alleged herein, Defendants, and each of them, have obtained direct and indirect profits they would not otherwise have realized but for their infringement of the Subject Design. As such, Plaintiff is entitled to disgorgement of Defendants' profits directly and indirectly attributable to Defendants' infringement of the Subject Design in an amount to be established at trial.

24. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, have committed acts of infringement alleged herein with actual or

1 constructive knowledge of Plaintiff's rights such that Plaintiff is entitled to a
2 finding of willful infringement.

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4 **SECOND CLAIM FOR RELIEF**

5 (For Vicarious Copyright Infringement – Against All Defendants)

6 25.Plaintiff repeats, re-alleges and incorporates herein by reference as though fully
7 set forth the allegations contained in Paragraphs 1 through 24, inclusive, of this
8 Complaint.

9 26.Plaintiff is informed and believes and thereon alleges that Defendants, and each
10 of them, knowingly induced, participated in, aided and abetted in and
11 resultantly profited from the illegal reproduction, importation, purchase,
12 marketing, advertisement, distribution and/or sales of product featuring the
13 Subject Design as alleged herein above.

14 27.Plaintiff is informed and believes and thereon alleges that Defendants, and each
15 of them, are vicariously liable for the infringement alleged herein because they
16 had the right and ability to supervise the infringing conduct and because they
17 had a direct financial interest in the infringing product.

18 28.By reason of the Defendants', and each of their, acts of contributory and/or
19 vicarious infringement as alleged above, Plaintiff has suffered and will continue
20 to suffer substantial damages to its business in an amount to be established at
21 trial, as well as additional general and special damages in an amount to be
22 established at trial.

23 29.Due to Defendants' acts of contributory and/or vicarious copyright infringement
24 as alleged herein, Defendants, and each of them, have obtained direct and
25 indirect profits they would have not otherwise realized bur for their
26 infringement of the Subject Design. As such, Plaintiff is entitled to
27 disgorgement of Defendants' profits directly and indirectly attributable to
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1 Defendants' infringement of the Subject Design, an amount to be established at
2 trial.

3 30. Plaintiff is informed and believes and thereon alleges that Defendants, and each
4 of them, have committed acts of infringement alleged herein with actual or
5 constructive knowledge of Plaintiff's rights such that Plaintiff is entitled to a
6 finding of willful infringement.

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8 **THIRD CLAIM FOR RELIEF**

9 (Contributory Copyright Infringement– Against All Defendants)

10 31. Plaintiff repeats, re-alleges and incorporates herein by reference as though fully
11 set forth the allegations contained hereforeto, inclusive, of this Complaint.

12 32. Plaintiff is informed and believes and thereon alleges that Defendants recklessly
13 disregarded Plaintiff's copyrights for the Subject Design even after knowing of
14 Plaintiff's claim for infringement.

15 33. Plaintiff is informed and believes and thereon alleges that Defendants, and each
16 of them, knowingly induced, caused, materially contributed to, participated in,
17 encourages, aided and abetted in and resultantly profited from the illegal
18 reproduction, importation, purchase, marketing, advertising, distribution and/or
19 sales of product featuring the Subject Design as alleged herein above.

20 34. By reason of the Defendants', and each of their, acts of contributory copyright
21 infringement as alleged above, Plaintiff has suffered and will continue to suffer
22 substantial damages to its business in an amount to established at trial, as well
23 as additional general and special damages in an amount to be established at trial.

24 35. Due to Defendants' acts of contributory copyright infringement as alleged
25 herein, Defendants, and each of them, have obtained direct and indirect profits
26 they would have not otherwise realized bur for their infringement of the Subject
27 Design. As such, Plaintiff is entitled to disgorgement of Defendants' profits
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1 directly and indirectly attributable to Defendants' infringement of the Subject
2 Design, an amount to be established at trial.

3 36. Plaintiff is informed and believes and thereon alleges that Defendants, and each
4 of them, have committed acts of infringement alleged herein with actual or
5 constructive knowledge of Plaintiff's rights such that Plaintiff is entitled to a
6 finding of willful infringement.

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8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff prays for judgment against all Defendants as follows:

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11 **Against All Defendants**

12 With respect to Each Claim for Relief:

- 13 1. That Defendants, their agents and servants be enjoined from infringing
14 Plaintiff's copyrights in any manner;
15 2. That Plaintiff be awarded all profits of Defendants plus all losses of Plaintiff,
16 the exact sum to be proven at time of trial, or, if elected before final judgment,
17 statutory damages as available under the Copyright Act, 17 U.S.C. § 101 *et*
18 *seq.*;
19 3. That Plaintiff be awarded its attorneys' fees as available under the Copyright
20 Act, 17 U.S.C. § 101 *et seq.*;
21 4. That Plaintiff be awarded pre-judgment interest as allowed by law;
22 5. That Plaintiff be awarded costs of litigation; and
23 6. That Plaintiff be awarded such further legal and equitable relief as the Court
24 deems proper.

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26 **DEMAND FOR TRIAL BY JURY**

27 Plaintiff hereby demands a trial by jury in this action pursuant to Federal Rule of
28 Civil Procedure 38 and the Seventh Amendment of the Constitution.

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5 Dated: February 27, 2019

Respectfully submitted,

6 /s/C. Yong Jeong

7 C. Yong Jeong, Esq.

8 Attorney for Plaintiff
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